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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/671,607	09/28/2000	Abel J. Rautenbach	01359.00002	7211

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EXAMINER	
NGUYEN, SON T	
ART UNIT	PAPER NUMBER
3643	

DATE MAILED: 09/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/671,607	RAUTENBACH, ABEL J.	
	Examiner	Art Unit	
	Son T. Nguyen	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 September 2000* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 September 2000* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: in line 1, "and" is a typo error and should be changed to ---an---. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 4,6** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 4, it is unclear what applicant means by "either of claims 2" because there is only one claim 2. Same explanation for claim 6.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-8,10,12-13,16-17,20-21** are rejected under 35 U.S.C. 102(b) as being anticipated by Du Vall et al. (Us 3,933,147).

For claim 1, Du Vall et al. disclose a device capable of immobilizing an animal comprising an elongated probe 10 having a rear end and a front end for insertion into the anal canal R of the animal, the probe having first 14 and second 16 electrodes spaced from each other on the outer surface thereof and electrical conductors 18,20

extending from the electrodes and adapted for connection to an electrical power source 36. Note, the device of Du Vall et al. is capable of immobilizing an animal because it produces electrical current which generates pulses to the electrodes, thus can immobilize the animal. In addition, applicant discloses on page 3, lines 5-11, that a voltage of between 1 and 11 volts and a frequency of between 20 and 50 Hz are sufficient to immobilize the animal, and Du Vall et al. teach in col. 4, lines 7 & 53, 8 or 9 volts and 200 Hz which are in the range as given by applicant; therefore, Du Vall's device is capable of immobilizing an animal just as well as applicant's device.

For claim 2, Du Vall et al. further disclose the probe is of right circular cylindrical configuration (see fig. 2, the "right angle" exists at the bottom or rear end of the probe).

For claim 3, Du Vall et al. further disclose the front end is a tapered rounded tip (see fig. 2 where dimension "x" is located).

For claim 4, Du Vall et al. further disclose the first electrode 14 is of annular configuration and is located near the front end of the probe and the second electrode 16 is of annular configuration and is located near to the first electrode (see figs. 6 & 7 for annular cross-section).

For claim 5, Du Vall et al. further disclose the first and second electrodes are separated by an annular groove in the probe (see fig. 2, annular grooves exist at dimension "z" meeting "y").

For claim 6, Du Vall et al. further disclose the second electrode extends from a position near the first electrode to the rear end of the probe (see fig. 2).

For claim 7, Du Vall et al. further disclose the electrodes are stainless steel electrodes (col. 6, line 67).

For claim 8, it is inherent that the electrodes of Du Vall et al. have opposite charges in order for current to be conducted. Therefore, Du Vall et al.'s first electrode is a positive electrode and the second electrode is a negative electrode.

For claim 10, Du Vall et al. further disclose the device includes a power source 36 for connection to the electrical conductors, the power source being adapted to supply a pulsed or alternating electrical current to the electrodes (see figs. 3-5).

For claim 12, Du Vall et al. further disclose the power source supplies an electrical current having a potential of between 1 and 11 volts (col. 4, line 7, indicates 8 or 9 volts which is between 1 and 11 volts).

For claim 13, Du Vall et al. further disclose the power source supplies an electrical current having a potential of between 2 and 10 volts (col. 4, line 7, indicates 8 or 9 volts which is between 2 and 10 volts).

For claim 16, Du Vall et al. disclose a method of immobilizing an animal which includes inserting a probe 10 having a pair of electrodes 14,16 into the anal canal R of the animal and applying an electrical current (col. 4, lines 5-7, 45-65) through the electrodes to the animal. Note, the device of Du Vall et al. is capable of immobilizing an animal because it produces electrical current which generates pulses to the electrodes, thus can immobilize the animal. In addition, applicant discloses on page 3, lines 5-11, that a voltage of between 1 and 11 volts and a frequency of between 20 and 50 Hz are sufficient to immobilize the animal, and Du Vall et al. teach in col. 4, lines 7 & 53, 8 or 9

volts and 200 Hz which are in the range as given by applicant; therefore, Du Vall's device is capable of immobilizing an animal just as well as applicant's device.

For claim 17, Du Vall et al. further disclose the electrical current is a pulsed current (col. 4, lines 45-46).

For claim 20, see claim 12 in the above paragraph.

For claim 21, see claim 13 in the above paragraph.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. **Claim 9** is rejected under 35 U.S.C. 103(a) as being unpatentable over Du Vall et al. (as above) in view of Fabian et al. (US 5,233,987). Du Vall et al. are silent about an indicator light at the rear end of the probe. Fabian et al. teach a similar device as that of Du Vall et al. in which Fabian et al. employ an indicator light 22,24 in the device 10 to indicate if the electrodes 12A,12B,12C,12D are working properly (col. 3, lines 54-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ an indicator light as taught by Fabian et al. on the device of Du Vall et al. in order to indicate if the electrodes of the device are working properly. Du Vall et al. as modified by Fabian et al. are silent about the indicator light being at the rear end of the probe. It would have been obvious to one having ordinary skill in the art at the time the invention was made to place the indicator light of Du Vall et al. as

modified by Fabian et al. at the rear end of the probe, depending on the user's preference to do so as long as the light is visible to indicate proper operation of the device.

8. **Claims 11,22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Du Vall et al. (as above) in view of Seager et al. (US 5,199,442).

For claim 11, Du Vall et al. teach 8 or 9 volts and 200 Hz as explained in the above paragraphs, but are silent about the power source supplying an electrical current of between about 250 mA and 400 mA. Seager et al. teach a similar device as that of Du Vall et al. in which Seager et al. designed their device to generate electrical current of between 0 to 700 mA which covers the range of 250 mA and 400 mA. It would have been obvious to one having ordinary skill in the art at the time the invention was made to generate an electrical current in the range between 0 to 700 mA as taught by Seager et al. in the power source of Du Vall et al. in order to allow a user with a wide range of electrical current for applying to the animal.

For claim 22, Du Vall et al. as modified by Carman disclose, as explained in the above paragraph for claim 11, a method of immobilizing in which the electrical current is between about 250 and 400 mA.

9. **Claims 14,15,18,19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Du Vall et al. (as above) in view of Carman (US 5,411,548).

For claims 14-15, Du Vall et al. teach 8 or 9 volts and 200 Hz as explained in the above paragraphs, but are silent about the power supplying an electrical current having a frequency of between 20 and 50 Hz or about 30 Hz. Carman teaches a similar device

as that of Du Vall et al. in which Carman designed his device to generate an electrical current having a frequency of between 10 and 60 Hz or 50 Hz or 10 and 15 Hz (col. 2, lines 28,36,41,48), all of which is in the range between 20 and 50 Hz or about 30 Hz. It would have been obvious to one having ordinary skill in the art at the time the invention was made to generate an electrical current in the range as taught by Carman in the power source of Du Vall et al. in order to allow a user with a wide range of electrical current for applying to the animal.

For claim 18, Du Vall et al. as modified by Carman disclose, as explained in the above paragraph for claims 14-15, a method of immobilizing in which the electrical current has a frequency of between 20 and 50 Hz.

For claim 19, Du Vall et al. as modified by Carman are silent about a frequency of 30 Hz. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the frequency of the device of Du Vall et al. as modified by Carman be 30 Hz, since it has been held that where routine testing and general experimental conditions are present, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

10. **Claim 23** is rejected under 35 U.S.C. 103(a) as being unpatentable over Du Vall et al. (as above) in view of Weiland (US 5,499,631). Du Vall et al. are silent about the animal being an ungulate. Weiland teaches a similar device as that of Du Vall et al. in which Weiland applies the probe device to a farm animal which are well known to be cows, horses, sheep, etc. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the probe device of Du Vall

et al. to a farm animal such as cows, horses, sheep, in order to immobilize them by applying the applicable electrical current as taught by Du Vall.

11. The following prior arts are made of record to provide the best available relevant examples of a device for use or capable for being used in immobilizing an animal: Lin and Hendersen et al. both teach portable hand held electric shocking device. Stiebel et al., Hamedi et al., Ferciot, Maurer et al. ('671 & '577), and Norris, all teach an electric probe inserted in the anal canal of an animal. Kieninger teaches protective sleeve for training dogs having electrodes coupled to the sleeve. Lines teaches an immobilizer having electrodes which are applied to the spinal column near the mouth or tail area of an animal.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Son T. Nguyen, *STN*
Patent Examiner, GAU 3643
September 13, 2002